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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,446	03/15/2004	Tracy Johnson	JOHN 02962 PTUS	1225
32233	7590	07/05/2005	EXAMINER	
STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			ABBOTT, YVONNE RENEE	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,446	Applicant(s) JOHNSON, TRACY	
	Examiner Yvonne R. Abbott	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/14/05 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Morton (6,370,715). Morton shows a portable bed capable of being used as a pet bed comprising a generally laminar panel covered on one side with mattress pad adapted to be comfortable to a pet lying on the laminar panel; wherein the panel is rigid and generally rectangular and has a pair of long edges and a pair of short edges; a hinge (33) formed in the laminar panel and dividing the panel into first and second portions on each side of the hinge, wherein the first and second portions can be folded toward one another into a closed position, wherein in an open position, the first and second panel portions lie in a coplanar relationship; and upstanding wall panels (23,24,25) extending along a periphery of one of the portions of the laminar panel and proximal the hinge, wherein, in an open position, the upstanding wall encloses only the portion of the panel from which it extends and, in the closed position, the first and second portions of the panel and the upstanding wall define an enclosure in which items may be transported; wherein the upstanding wall extends along the long edge of the first panel opposite the hinge member and along the two short edges of the first panel; and

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wherein only the first panel is bounded by the upstanding wall; wherein the hinge connects one long edge of the first panel to one long edge of the second panel; and handles (34,35) with handle (35) disposed on the portion of the upstanding wall extending along the long edge of the first panel for transporting the pet bed with the panels in the closed position; and wherein a zipper closure (39) for securing the first and second portions of the panel in the closed position.

3. Claims 1, 2 and 5-7,9, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Antosko (5,115,524). Antosko shows a portable bed capable of being used as a pet bed comprising a generally laminar panel covered on one side with mattress pad (30) adapted to be comfortable to a pet lying on the laminar panel; wherein the panel is rigid and generally rectangular and has a pair of long edges and a pair of short edges; hinges (27) formed in the laminar panel and dividing the panel into first and second portions on each side of the hinge, wherein the first and second portions can be folded toward one another into a closed position, wherein in an open position, the first and second panel portions lie in a coplanar relationship; wherein the area between hinges (27) forms a rectangular medial panel; upstanding wall panels (14,15) extend along a periphery of one of the portions of the laminar panel and proximal the hinge, wherein, in an open position, the upstanding wall encloses only the portion of the panel from which it extends and, in the closed position, the first and second portions of the panel and the upstanding wall define an enclosure in which items may be transported; wherein the upstanding wall extends along the long edge of

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the first panel opposite the hinge member and along the two short edges of the first panel; wherein the hinge connects one long edge of the first panel to one long edge of the second panel; and handles (23) disposed on the portion of the upstanding wall extending along the long edge of the first panel for transporting the pet bed with the panels in the closed position; and wherein a closure (24,25) for securing the first and second portions of the panel in the closed position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trahan et al. (4,681,195) in view of Morton ('715). Trahan et al. show a bag convertible to a mat device capable of being used as a portable pet bed comprising a generally laminar panel at least partially covered on one side with towel like material adapted to be comfortable to a pet lying on the laminar panel; wherein the panel is rigid and generally rectangular and has a pair of long edges and a pair of short edges; a hinge (shown by dotted lines) formed in the laminar panel and dividing the panel into first and second portions on each side of the hinge, wherein the first and second portions can be folded toward one another into a closed position, wherein in an open

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position, the first and second panel portions lie in a coplanar relationship; an upstanding wall formed by compartments (14,16,18) extending along a periphery of one of the portions of the laminar panel and proximal the hinge, wherein, in an open position, the upstanding wall encloses only the portion of the panel from which it extends and, in the closed position, the first and second portions of the panel and the upstanding wall define an enclosure in which items may be transported; wherein the upstanding wall extends along the long edge of the first panel opposite the hinge member and along the two short edges of the first panel; wherein only the first panel is bounded by the upstanding wall; wherein the hinge connects one long edge of the first panel to one long edge of the second panel; and a handle (20) disposed on the portion of the upstanding wall extending along the long edge of the first panel for transporting the pet bed with the panels in the closed position. Trahan et al., however, does not disclose a closure for securing the first and second portions of the panel in the closed position. Morton teaches a portable infant bed comprising a zipper closure (39) for securing first and second panels in a closed position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a closure means such as is taught by Morton on the Trahan et al. convertible bag in order to hold the panels together in order to prevent items contained within the bag from inadvertently falling out during transport.

6. Claims 1, 2, 4, 5, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard (4,198,718). Ballard discloses a portable folding bed capable

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of use for a pet comprising a generally laminar panel at least partially covered on one side with cushion material (21) adapted to be comfortable to a pet lying on the laminar panel; a hinge formed in the laminar panel and dividing the panel into first and second portions on each side of the hinge, wherein the first and second portions can be folded toward one another into a closed position; an upstanding wall (14) extending along a periphery of one of the portions of the laminar panel and proximal the hinge, wherein, in an open position, the upstanding wall encloses only the portion of the panel from which it extends and, in the closed position, the first and second portions of the panel and the upstanding wall define an enclosure in which items may be transported; and a handle (18) for transporting the pet bed with the panels in the closed position; wherein the bed forms upper (11), lower (12) and rectangular medial (10) panels sections.

Ballard, however, does not disclose a closure for securing the first and second portions of the panel in the closed position; nor does Ballard disclose that the upper and lower panel sections are rectangular. Morton teaches a portable infant bed comprising a zipper closure (39) for securing first and second panels in a closed position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a closure means such as is taught by Morton on the Ballard portable bed in order to ensure that the sections remain nested and held together such that articles contained within do not inadvertently fall out during transport. With respect to the rectangular panel sections, to change the shape of the upper and lower panels from semi-circular to rectangular is considered to be a design modification that would have

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been obvious to one of ordinary skill in the art at the time the invention was made to accommodate a larger animal, for aesthetic purposes, or for convenient storage.

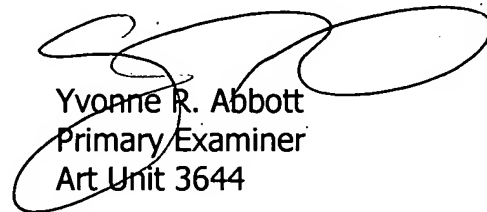
7. Claims 3, 11, and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard in view of Moore (5,144,911). Ballard discloses a portable bed having a cushion, however, it is not specifically disclosed that the cushion material is fleece. Moore teaches a pet bed comprising a fleece mat (18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the Ballard cushion material be fleece as it is well known that fleece material is soft, and cushioning and provides a comfortable surface on which to lay.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
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